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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,749	05/23/2001	Tadashi Fukumoto	Ishii Case 16	9164
7590 09/14/2005 FLYNN, THIEL, BOUTELL & TANIS, P.C. 2026 Rambling Road Kalamazoo, MI 49008-1699			EXAMINER SPAHN, GAY	
			ART UNIT 3673	PAPER NUMBER

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

REPLY BRIEF NOTED

The reply brief filed 15 August 2005 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

In response to the reply brief on 15 August 2005, the Examiner sets forth her comments below:

As for Appellants' remarks bridging pages 1-2 of the Reply Brief, it is mere conjecture on Appellant's part to suggest that one of ordinary skill in the art would not take the position that...[the breakwater of JP '520] could function as a breakwater structure when the entire structure is submerged." The breakwater of JP '520 would function whether fully submerged or partially submerged. In any event, claims 13, 15, and 21 do not call for a fully submerged breakwater, (i.e., breakwater having water covering the top surface thereof).

As for Appellants' remarks within the first full paragraph on page 2 of the Reply Brief, opening 3 of JP '520 extends at a lower end of the vertical wall and thus meets the recitation of "vertical wall having at least one opening at a lower end".

As for Appellants' remarks within the second full paragraph on page 2 of the Reply Brief, "hole" 3 can be seen on a side of the breakwater opposite that of the "vertical wall". Or "hole" 3 can be seen to the right of "opening" 3, (or to the left of

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“opening” 3), on the same side of the “vertical wall.” Claim 13 calls for only one “opening” while claim 15 calls for only one “hole”. Therefore, the breakwater of JP ‘520 discloses both a “vertical wall having at least one opening at a lower end” as well as “at least one hole is formed at the bottom of said box.”

As for Appellants’ remarks bridging pages 2-3 of the Reply Brief, reference is made to the initial paragraph of this response. Further, as to Appellants’ remarks re “orientation”, the rejection of claim 16 and 24 proposed placing of the JP ‘520 breakwater on a “mound” as is called for in each of claims 16 and 24. The rejection provides reasoning as to how and why one of ordinary skill in the art would place any breakwater upon a “mound” in the sea. And, as for Appellants’ remarks re “a top having slits inclined with respect to the direction along which waves propagate”, such is disclosed by JP ‘520 as along slits 5a, which can be seen as inclined with respect to a direction along which waves propagate, (i.e., inclined to the vertical, thus inclined to the horizontal direction along which a wave propagates). However, slits 5a of JP ‘520 would inherently be inclined to wave propagation as waves do not promulgate in only a perpendicular direction with respect to the shore. Thus, even if the breakwater of JP ‘520 were to lie parallel with the shore the slits 5a would be slits inclined with respect to the direction along which waves propagate.”

As for Appellants’ remarks within the first full paragraph on page 3 of the Reply Brief, reference is made to the initial paragraph of this response.

For the above reasons, it is believed that the rejections should be sustained.


Art Unit: 3673

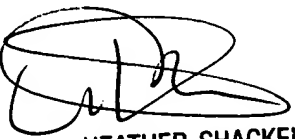
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571)-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gay Ann Spahn, Patent Examiner
September 2, 2005


HEATHER SHACKELFORD
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